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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,143	12/01/2003	Maury G. Van Vliet	369-2US	1119
20212 7590 07/06/2009 Lambert Intellectual Property Law Suite 200 10328 - 81 Avenue Edmonton, AB T6E 1X2 CANADA				
EXAMINER				
ROST, ANDREW J				
ART UNIT		PAPER NUMBER		
3753				
MAIL DATE		DELIVERY MODE		
07/06/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/724,143

**Applicant(s)**

VAN VLIET ET AL.

**Examiner**

Andrew J. Rost

**Art Unit**

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 March 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 4-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,2 and 4-23 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to the amendment filed 3/9/2009. Claims 1, 4 and 20 are currently amended. Claim 3 has been canceled. No claims have been newly added. Claims 1, 2, and 4-23 are pending.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 2 and 4-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins, Jr. (4,394,027) in view of Yamamoto (3,724,703).

Regarding claim 1, Watkins, Jr. discloses a fuel transport vehicle having a chassis (22, 25), wheels (18, 19, 35a, 35b, 38), a tank (11) mounted on the chassis (22)

in a horizontal manner, and a fuel transfer system (15) having fuel-forwarding equipment (fuel filter 86, hydraulic motor 82 and a pump 80). Watkins, Jr. does not disclose the tank to be double-walled. However, Yamamoto teaches utilizing a double-walled tank for the hull of a tanker that stores gas with the tank having double-walls in order to easily detect any leak from an inner tank by analyzing the gas in the space between the double-wall (col. 2, lines 15-21). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the tank of Watkins, Jr. as a double-walled tank as taught by Yamamoto in order to allow for easy leak detection by analyzing the gas in the space between the double-walled portion of the tank.

In regards to claims 2 and 4-19, Watkins, Jr. discloses the tank to be substantially cylindrical and the fluid transfer system having a filter (86), a hydraulic motor (82) and a pump (80) all located within a cabinet (15) along with other various components (col. 4, lines 44+) with the location of the various components clearly shown with respect to the chassis while the particular material of construction of the tank to be a matter of design choice.

Regarding claims 20-23, Watkins, Jr. in view of Yamamoto disclose a method of transportation and storing fluids by providing a tank (11) mounted on a chassis (22, 25), wheels (18, 19, 35a, 35b, 38; wherein landing gear 38 contacts the ground when the tractor portion is detached from the tank chassis, col. 3, lines 21-25) with the tank having a double-wall as taught by Yamamoto in order to allow for easy leak detection by analyzing the gas in the space between the double-walled portion of the tank with the

tank being filled with a fuel (in this case, jet fuel) wherein the tractor (12) and tank (11) are mounted on chassis with wheels for allowing the tank to be movable and transported to a location with the fuel being stored on-site (fuel is kept in the tank until it is needed) and then using the tank to fuel equipment (in this case, an aircraft) at the location with fuel-forwarding equipment (fuel filter 86, hydraulic motor 82 and a pump 80).

### ***Response to Arguments***

5. Applicant's arguments filed 3/9/2009 have been fully considered but they are not persuasive.

Applicant argues the combination of the Watkins, Jr. reference in view of the Yamamoto reference on pages 6-8. The examiner disagrees. The Watkins, Jr. reference discloses a fuel transport vehicle that is used to transport fuel (fuel is transported within trailer 11 to a desired location), to store fuel (fuel is contained within the trailer 11 until the fuel is needed) and to deliver the fuel (fuel is delivered to a destination with the fuel being pumped from the trailer by the pumping module). The Yamamoto reference teaches the use of a double-walled tank wherein an inner tank (3a) is supported within a tank (3) with the tank (3) providing liquid-tightness and sufficient strength as a secondary barrier (col. 4, lines 21-25) along with the detection of a leakage of the inner tank (3a) by analyzing the gas between the inner tank (3a) and the tank (3) (col. 2, lines 15-21). The use of the double-walled tank provides for the tank (3) to be a secondary barrier for the fluid contained within the inner tank (3a) in

order to prevent the leakage of the fluid within the inner tank (3a) from escaping into the environment in the case a leakage of inner tank (3a) would occur. Therefore, the use of a double-walled tank would provide a secondary barrier for the fluid held within the inner tank (3) which a single-walled tank does not provide wherein the additional barrier aides in the protection of the environment from the fluid within the tank in the case of a leakage of the inner tank.

In response to applicant's argument that one would use a double-walled tank for leak containment, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reese (5,564,588) discloses a multi-walled tank for storing flammable liquids.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Rost whose telephone number is 571-272-2711. The examiner can normally be reached on 7:00 - 4:30 M-Th and 7:00 - 12:00 Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. J. R./  
Examiner, Art Unit 3753

/Gregory L. Huson/  
Supervisory Patent Examiner, Art  
Unit 3751